

[a] 117B. If any sub-division of a survey number is relinquished under section 74 or is forfeited for default in payment of land revenue, the Collector shall offer such sub-division at such price as he may consider it to be worth to the occupants of the other sub-divisions of the same survey number in such order as in his discretion he may think fit; in the event of all such occupants refusing the same, it shall be disposed of as the Collector shall deem fit:

Provided that until the said sub-division shall be occupied or until the entire survey number shall be relinquished, whichever event may first occur, the assessment of the said sub-division shall be levied from the occupants of the other sub-divisions of the survey number in proportion to the amount of assessment due from such occupants on account of their sub-divisions.

For the purposes of this section notwithstanding anything contained in section 3, if any of the other sub-divisions have been mortgaged with possession, the mortgagors shall be deemed to be the occupants thereof.

[a] This section was inserted by Bom. IV of 1913, s. 56.

CHAPTER IX.

THE SETTLEMENT OF BOUNDARIES AND THE CONSTRUCTION AND MAINTENANCE OF BOUNDARY-MARKS.

Determi-
nation of
village-
boundaries.

[a] 118. The boundaries of villages situated in British territory shall be fixed, and all disputes relating thereto shall be determined by survey

officers, or by such other officers as may be nominated by Government for the purpose, who shall be guided by the following rules :—

Rule 1.—When the pátels and other village officers of any two or more adjoining villages, and, in the case of an alienated village the holder thereof or his duly constituted agent, shall voluntarily agree to any given line of boundary as the boundary common to their respective villages, the officer determining the boundary shall require the said parties to execute an agreement to that effect, and shall then mark off the boundary in the manner agreed upon. And any village boundary fixed in this manner shall be held to be finally settled, unless it shall appear to the said officer that the agreement has been obtained by fraud, intimidation, or any other illegal means.

Rule 2.—If the pátels and other village officers, and, in the case of an alienated village, the holder thereof or his duly constituted agent, do not agree to fix the boundaries of their respective villages, in the manner prescribed in the preceding rule, or if it shall appear to the said officer that the agreement has been obtained by fraud, intimidation, or any other illegal means, or if there be any pending dispute, the said officer shall make a survey and plan of the ground in dispute, exhibiting the land claimed by the contending parties, and all particulars relating thereto, and shall hold a formal inquiry into the claims of the said parties, and thereafter make an award in the case. If either of the villages concerned be alienated, an award made by a

survey officer shall, unless the officer making it be the Superintendent of Survey, be subject to his confirmation, and an award made by any other officer shall be subject to confirmation by such other officer as Government may nominate for the purpose.

[a] As to the local modification 118, see para. 4 of footnote [a] on p. 1, *supra*;

G. 1. Where large rivers of which the bed is fairly full throughout the year divide the states the rule of midchannel is adopted. Where the rivers run very dry and shift their channels but leave the banks as a permanent boundary the rule of midbed is preferred with a reservation of the right of use of the water. But where the banks are subject to erosion and as shifting as the channel the rule of midchannel is reverted to as a choice of evils. (G. R. P. D. No. 8820 dated 21st December 1891 and G. R. P. D. No. 1640 dated 9th March 1893).

G. 2. Persons encroaching before location of boundaries should not be evicted:—Although it cannot be admitted that the location of a boundary under Chapter IX would necessarily exempt a person from penalty of unauthorized occupation of land within it, if encroachment before the location could be distinctly proved it would hardly be ever expedient to apply Section 61 to land which has been included in an occupied number at an original or revision survey and it would be especially inexpedient where the survey took place many years ago and the land alleged to be encroached upon has been in occupation ever since. (G. R. No. 3630, dated 13th May 1897.)

J. 1. The Civil Court can adjudge a boundary dispute (P. J. 41 of 1898.)

J. 2. Power of the Court:—The Court has no power to fix the boundaries of legal estates unless some equity is superinduced by the act of the

parties as some particular circumstance of fraud or confusion (*Kawasji vs. Hormusji* 1904 I. L. R. XXIX, Bombay page 73.)

[^a] **119.** If, at the time of a survey, the determination of field boundary of a field or holding be undisputed, boundaries and its correctness be affirmed by the village officers then present, it may be laid down as pointed out by the holder or person in occupation, and, if disputed, or if the said holder or person in occupation be not present, it shall be fixed by the survey officer according to the [^b] and records [^b] and according to occupation as ascertained from the village officers and the holders of adjoining lands, or on such other evidence or information as the survey officer may be able to procure.

If any dispute arise concerning the boundary of a field or holding which has not been surveyed, or if at any time [^c] after the completion of a survey [^c] a dispute arise concerning the boundary of any survey number, [^d] or subdivision of a survey number [^d] it shall be determined by the Collector, who shall be guided [^e] by the land records [^e] if they afford satisfactory evidence of the boundary previously fixed, and if not, by such other evidence as he may be able to procure.

[a] As to the local modification of section 119, see para. 4 of foot-note [a] on p. 1, *supra*.

[b-b] These words were substituted for the original words "Village records" by Bom. IV of 1913, s. 57.

[c-c] These words were substituted for the original words "after the survey records have been handed over to the Collector" by Bom. IV of 1913, s. 57.

[d-d] These words were inserted by Bom. IV of 1913, s. 57.

[e-e] These words were substituted for the original words in the case of survey numbers by the survey records" by Bom. IV of 1913, s. 57.

SUMMARY (s. 119)

Section 119 interpretation	... G 7
	... J 1
Boundary (1) disputes	... G 1,3,4
(2) revision	... G 2,5
Maps prepared under s. 135 G.	... G 6

G 1. Boundary disputes to be decided free of cost.—Sections 119 and 120 provide the machinery for the settlement of a boundary dispute and make it the duty of the officers mentioned therein to decide such a dispute. The sections are silent as to any charge for the performance of such duties, and it is not open to Government therefore to attach any charge on account of such performance any more than on account of a judicial decision.

The cost of constructing a boundary-mark is recoverable as a revenue demand (Sections 122, 124, and 187) whenever it is necessary, whether it be needed in consequence of a dispute or not, but no charge can be made for the settlement of a dispute as to a boundary. (G. R. No. 2465, dated 29th March 1889.)

G 2. Revision of boundaries.—Section 119 does not contemplate revision of boundaries, on the ground of incorrectness in their location by the Survey. (G. R. No. 3796, dated 23rd May 1889.)

G 3. Enquiries into complaints as to incorrect boundaries.—The present practice of recovering cost in cases of inquiries set on foot on complaints as to the incorrectness of boundary marks fixed by the Survey should be adhered to. (G. R. No. 745, dated 29th January 1890.)

G 4. Power of Government in boundary disputes:—Government's power to settle boundary disputes under Section 119 cannot be objected to on the ground that Civil Courts alone have power to decide questions of title. The Collector's decision as to the position of the boundary line of a

survey number and as to the rights of the land holders is determinative. (G. R. No. 3416, dated 7th May 1904.)

G 5. The correctness of a boundary fixed at the time of the survey cannot be subsequently called in question.

(G. R. R. D. 10436 dated 28th October 1909.)

G 6. The Settlement Commissioner and Director of Land Records inquired :—

(a) whether maps prepared as suggested by, and under the powers conferred by, section 135-G. of the Land Revenue Code are "Land Records."

and

(b) whether, if they are "Land Records," they afford evidence of the boundary previously fixed when the Collector, under Section 119 (2), turns to them on the outbreak of a dispute.

Government passed the following orders :—

The previous fixing of the boundaries, which is spoken of in Section 119, would ordinarily, in the case of sub-divisions of survey numbers, relate back to the occasion when the sub-division was marked out (vide section 117-A), and that in any case a map prepared under section 135-G. would be the best possible evidence of the boundaries of the sub-division ; the continuation of the preparation of the maps is of the greatest utility to the holders as security for the maintenance of their boundaries ; Government do not consider that any action is required.

(G. M. No. 1043 dated 27th January 1917.)

G. 7. Interpretation of sections 119 and 121 of the Land Revenue Code.

Memorandum from the Remembrancer of Legal Affairs No. 739 dated 17th March 1917 :—

"Section 121 of the Land Revenue Code only comes into operation when there has been a settle-

ment of a boundary under any of the previous provisions of chapter IX. In the present case there was no such settlement. The only one of the provisions referred to which could have been applied in the present case is the second paragraph of section 119. But there was no settlement under that paragraph for that paragraph can be made use of, after the completion of a survey, only if 'a dispute arise concerning the boundary of a survey number or sub-division of a survey number.' Here there was no dispute as to the boundaries of the survey numbers in question, for the limits of the survey numbers were determined by the maps and records and remained unquestioned throughout all the proceedings. This was therefore a case in which the Assistant Collector had no jurisdiction, and in any opinion the Collector rightly reserved his order."

Memorandum from the Remembrancer of Legal Affairs No. 919 dated 11th April 1917:—

"Section 119 of the Land Revenue Code, as I read it, applies to the following cases:—

- (a) Where a survey is being carried out and it is necessary to make fields into survey numbers: here, the survey officer lays down the boundaries of the fields, with a view to making survey numbers, according to the best evidence available to prove the right of the occupants to possession of the land they claim as belonging to their fields.
- (b) Where a field or holding has not been surveyed and there is a dispute as to the boundaries and it is necessary to determine its boundaries: here, the Collector lays down the boundaries of the field much in the same way as the survey officer laid down the boundaries under (a).
- (c) Where a survey has, at some previous time, been carried out, and there is a dispute as to

the boundary of a survey number or sub-division, the Collector lays down the boundary of the survey number or sub-division (for this is the matter of the dispute) according to the evidence obtainable.

" 2. Section 121 would, so far one can judge, apply to the foregoing as follows :—

In the case of (a), the survey officer's decision determines the boundaries of the field and of any survey number which may be constituted by the survey officer, and the extent of the land which the holder of the field or survey number is at the time entitled to hold as appertaining to his field or survey number.

In the case of (b), the Collector's decision determines the boundaries of the field and the extent of the land which the holder is at the time entitled to hold as appertaining to his field.

In the case of (c) the Collector's decision determines the boundary of the survey number or sub-division and the extent of the land which the holder of the survey number or sub-division is at the time entitled to hold as appertaining to his survey number or sub-division.

" 3. If I read the present case correctly it is not similar to any of the above cases. There was no survey being carried out when the Assistant Collector passed his decision, but a survey had been carried out previously. There was no dispute as to the boundary of a survey number, for the boundaries of the survey numbers were known and admitted. At the time of the civil suit there was a dispute whether one party had by prescription acquired a right over part of a survey number, but this dispute was decided by the civil court. At the time of the Assistant Collector's decision there were no facts to which the provisions of section 121 could be applied. If there had been a dispute as to the boundaries of the survey numbers, the

dispute would have been of the kind mentioned in case (c), but this was not so in fact.

"4. Unless I am mistaken, sections 119 to 121 apply merely to boundary disputes, that is, disputes as to the position of boundaries, and rights which depend upon and follow from the position of a boundary; they do not touch rights acquired over the land by any other means, such as transfer or prescription."

Government order :—Copies of the Legal Remembrancer's reports should be forwarded to the Commissioners (including the Settlement Commissioner and Director of Land Records) and Collectors, including the Deputy Commissioner Upper Sind Frontier.

(G. R. 7859 dated 28th June 1917.)

J. J. It is only when a boundary dispute arises between the owners of adjoining lands, and the Collector is called upon to determine the dispute that his determination becomes final under section 121 of the code so as to oust the jurisdiction of the civil court.

Laxman V. Antaji, 25 Bombay 312.

Settlement of
boundary dis-
putes by arbi-
tration.

120. If the several parties concerned in a boundary dispute agree to submit the settlement thereof to an arbitration committee, and make application to that effect in writing, the officer whose duty it would otherwise be to determine the boundary shall require the said parties to nominate a committee of not less than three persons, within a specified time, and if within a period to be fixed by the said officer the committee so nominated or a majority of the members thereof arrive at a decision, such decision, when confirmed by the said officer, or if the said officer be a survey officer lower in rank than a

Superintendent of Survey, by the Superintendent of Survey, shall be final :

Provided that the said officer, or the Superintendent of Survey, shall have power to remit the award, or any of the matters referred to arbitration, to the reconsideration of the same committee, for any of the causes set forth in [a] paragraph 14 of the Second Schedule to the Code of Civil Procedure, 1908[^a]

If the committee appointed in the manner aforesaid fail to effect a settlement of the dispute within the time specified, it shall be the duty of the officer aforesaid, unless he or, if the said officer is a survey officer lower in rank than a Superintendent of Survey, the Superintendent of Survey, see fit to extend the time, to settle the same as otherwise provided in this Act.

[a—a] These words were substituted for the original words "section 520 of the Code of Civil Procedure" by Bom. IV of 1913, s. 58.

N. I. (Rule 14 of Second Schedule of V of 1908) —the Court may remit the award or any matter referred to arbitration to the reconsideration of the same arbitrators, or umpire, upon such terms as it thinks fit :—

- (a) Where the award has left undetermined any of the matters referred to arbitration or where it determines any matter not referred to arbitration unless such matter can be separated without affecting the determination of the matters referred.
- (b) Where the award is so indefinite as to be incapable of execution.
- (c) Where an objection to the legality of the award is apparent upon the face of it.

Effect of the
settlement of
a boundary.

[^a] **121.** (1) The settlement of a boundary under any of the foregoing provisions of this chapter shall be determinative :

(a) of the proper position of the boundary line or boundary-marks, and

(b) of the rights of the landholders on either side of the boundary fixed in respect of the land adjudged to appertain, or not to appertain, to their respective holdings.

[^b] (2) Where a boundary has been so fixed, the Collector may at any time summarily evict any landholder who is wrongfully in possession of any land which has been adjudged in the settlement of a boundary not to appertain to his holding or to the holding of any person through or under whom he claims.

[a] Section 121 was numbered sub-section (1) of s. 121 by Bom. IV of 1913, s. 59.

[b] This sub-section was added by Bom. IV of 1913, s. 59.

N. 1. Vide G. 7, under Section 119.

N. 2. Clause (2) gives to the Collector after he has fixed a boundary the necessary power to enforce his decision summarily. Previously his decision was final but he had no power to enforce it.

J. I. While the Land Revenue Code Bill was under discussion one of the Hon'ble Members proposed, with the object of not giving the decisions of revenue officers passed in boundary dispute cases the finality contemplated by Sections 119, 120 and 121, that Section 121 should be omitted altogether, and that the following clause should be added to Sections 119 and 120, viz., "Provided that the determination of any boundary under these sections shall not debar any one claiming any right in the land from any legal remedy he would otherwise have for dispossession."

This amendment, when put to the vote, was lost. Under the sections as they now stand, therefore, the decisions passed by revenue officers are final, as will be seen from the following decision of the Bombay High Court :—

In 1877, a dispute arose between plaintiffs and defendant as to the boundaries of certain land, being Survey Nos. 88 and 87, of which the plaintiffs and the defendant were respectively occupants under Government. In 1879, the boundaries were fixed by a revenue officer under the orders of the Collector, and the piece of land in dispute was found to belong to the plaintiffs as occupants of Survey No. 88. Subsequently, the defendant having encroached upon it and dispossessed the plaintiffs, the present suit was filed. The Court of first instance awarded the plaintiffs claim holding that the decision by the revenue officers was conclusive as to the boundary. The defendant appealed, and the lower appellate Court reversed the lower Court's decree. On appeal by the plaintiffs to the High Court,

Held, restoring the decree of the Court of first instance, that, under the provisions of Section 121 of Act V. of 1879, the decision of the Collector as to the boundaries was conclusive, and that the plaintiffs were entitled to possession. (*Bai Ujam and another vs. Valiji Rasulbhai*,—I.L.R. Bombay, Volume X., page 456, 1886.)

J. 2. Where there was a settlement of boundaries under Section 119, the word "determinative" in Section 121 meant conclusive as to the legal rights of the adjoining holders. (Printed Judgment II, *Lakshaman vs. Narayan*, 90.)

J. 3. Section 121 must be read with Sections 119 and 120. To attract the applicability of Section 121 there must be a boundary dispute between the owners of neighbouring numbers and when there is such a dispute, the law gives power to the Col-

lector to make a final determination of the dispute with the help of the Survey record and other evidence. Then the Collector's determination becomes final so as to oust the jurisdiction of the Civil Court. (*Laxman vs. Antaji*, I. L. R. XXV, Bombay, 312.)

*Construction
and repair of
boundary-
marks of
survey num-
bers and
villages.*

122. It shall be lawful for any survey officer, authorized by a Superintendent of Survey, or Settlement officer, to [a] specify or cause to be constructed, laid out, maintained or repaired [a], boundary marks of villages or survey numbers [b] or sub-divisions of survey numbers [b] whether cultivated or uncultivated, and to assess all charges incurred thereby on the holders or others having an interest therein.

*Requisition
on landhold-
ers to erect or
repair bound-
ary-marks.*

Such officer may require landholders to construct, [c] lay out, maintain [c] or repair their boundary-marks, by a notification which shall be posted in the chávdi or other public place in the village, to which the lands under survey belong, directing the holders of survey-numbers [d] or sub-divisions [d] to construct, [c] lay out, maintain [c] or repair, within a specified time, the boundary-marks of their respective survey numbers [d] or sub-divisions [d] and on their failure to comply with the requisition so made, the survey officer shall then construct [c] lay out [c] or repair them and assess all charges incurred thereby as hereinbefore provided.

*A general
notification to
be good and
sufficient
notice of
requisition.*

A general notification, issued in the manner aforesaid, shall be held to be good and sufficient notice to each and every person having any interest in any survey numbers [d] or sub-divisions [d] within the limits of the lands to which the survey extends.

[e] The boundary-marks shall be of such description, and shall be constructed, laid out, maintained or repaired in such manner and shall be of such dimensions and materials as may, subject to rules [f] made in this behalf under section 214, be determined by the Superintendent of Survey, according to the requirements of soil and climate. Description of boundary-marks.

[a—a] These words were substituted for the original words by Bom. VI of 1901, s. 14 (1).

[b—b] These words were inserted by Bom. IV of 1913, s. 60 (a).

[c—c] These words were inserted by Bom. VI of 1901, s. 14 (2).

[d—d] These words were inserted by Bom. IV of 1913, s. 60 (a).

[e] This paragraph was substituted for the original paragraph by Bom. VI of 1901, s. 14 (3).

[f] Words repealed by Bom. IV of 1913, s. 60 (b), are omitted.

SUMMARY (s. 122.)

Section 122

(1) G. 3 under s. 123 referred to	N. 1
(2) Meaning of	N. 2

Boundary marks.

(1) Charges recovery	... G. 16 J. 1
(2) Commissioner's power to write off outstanding charges.	... G. 10
(3) Inam villages.	... G. 1, 4, 13, 15.
(4) Inspection of	... G. 23, 24.
(5) Kinds of	
(a) Bends G. 19
(b) Chunam and stone	... G. 8
(c) Frontier	... G. 17
(d) Single mark system.	... G. 25
(e) Superfluous ...	G. 7, 9, 12
(6) Maintenance and repair rules	G. 18
(7) Mistakes, correction of	... G. 11

(8) Notification for repairs	...	G. 6
(9) Occupied lands	...	G. 5, 20, 21
(10) Railway lands.	...	G. 14
(11) Waste lands.	...	G. 2, 3, 17, 22.

, N. 1 *Vide G. 3 under section 123.*

N. 2 Under clause 1 of section 122 it is open to the survey officer to give, without publication, separate notice, specifying a time, to individuals if only one sub-division is concerned, and clauses 2 and 3 of section 122 are designed to facilitate the giving of notice when a large number of fields are involved.

- G. 1 In Inam villages.—Waste Inam fields, on which boundary mark charges are due, are to be sold annually as grass lands if the Inamdars are not present, and the charges liquidated from the proceeds.

If the Inamdars are present the payment of money should be peremptorily enforced as a revenue demand under Section 6 of Act III. of 1846 (now Section 122 of the Code). (G. R. No. 9976, dated 17th October 1851.) .

G. 2 Repairs to boundary-mark in Khalsat unoccupied lands are to be made by the Local Officer at the expense of Government, unless the Collector is satisfied that the repairs would be as effectually and more cheaply made by the farmers, to whom the grazing of the land is annually sold, when a clause requiring this to be done should be included among the conditions of the sale. When the former course is adopted the farmers of waste numbers should be freed from all responsibility whatever connected with the boundry-marks, as the sale of the grazing farms must be injured by laying any amount of responsibility on them.

To provide funds for the repair of boundry-marks to Khalsat unoccupied lands, the Collector may deduct from the amount for which the grazing farms may be sold, a sum not exceeding five rupees for

every thousand acres of waste, and hold this amount in deposit until the 15th of July in each year when any unexpended balance of it should be brought to credit on account of the grazing farm, so as to prevent any accumulation of funds beyond the close of the revenue year.

In Talukas where the boundary-marks to unoccupied lands have been allowed to fall into great disrepair, and the sum provided by the foregoing rule would not suffice for their restoration, the Collector may expend from the collection on account of grazing farms double the amount allowed by the preceding rule, or up to ten rupees for every thousand acres of waste, on reporting his reasons for the information of the Commissioner. (G. Letter, dated 20th August 1852.)

G. 3 Writing off boundary-mark outstanding balances:—Collectors and Commissioners are authorized to write off advances made for the erection of boundary marks on waste lands when found to be irrecoverable for a period of 3 years after the introduction of the Survey assessment in consequence of the land not being taken up for cultivation. (G. R. No. 3566, dated 24th September 1862).

G. 4 Responsibility of Holders of alienated villages:—The owners of the alienated villages which have been surveyed, by virtue of their being held on service tenure, or at the express desire of the alienee, should be requested to cause the boundary-marks to be examined by the village officers, to test these examinations themselves or by their agents and to report the result to the Assistant Collector in charge of the Taluka. (G. R. No. 2581, dated 19th June 1865.)

G. 5 All boundary-mark expenditure on occupied land should be collected immediately the distribution accounts are sent to the Collector. In case of any special circumstances rendering it expedient

to postpone that collection for a time, the Collector can do so with the sanction of the Commissioner of Division.

All boundary-mark expenditure should remain on the Survey Books till the measurement of the village is completed and the accounts made up. In cases where the final completion of a village is delayed on account of a little work, boundary disputes or such like, sending in the accounts of the completed main bulk of the village need not be delayed; a supplementary bill being forwarded afterwards on the completion of the outstanding work. (G. R. No. 4036, dated 5th November 1866.)

G. 6 The form of the notification need not be sanctioned by Government. It is the duty of the Collector to issue a proper notification. (G. R. R. D. No. 4800, dated 14th June 1884).

G. 7. Superfluous boundary marks. Circle Inspectors to cause them to be removed:—It is the duty of the village officer and Circle Inspectors to cause superfluous marks, that have been cut into two at the revision Survey as a sign that they need not be repaired, to be removed, and the Collectors should see that this duty is properly carried out. (G. R. No. 6560, dated 14th August 1884.)

G. 8. There is no objection to occupants constructing permanent boundary marks of chunam and stone. (G. R. No. 8, dated 3rd January 1885.)

G. 9. If not removed by occupants, cost of removal charged to them—If landholders do not remove the superfluous marks, the expense of removing them can be recovered from them. If, as is said to be the case, deep cuttings are made in the cancelled marks there can be no risk in letting the village officers under the supervision of Circle Inspectors or General duty karkuns to take measures for their removal, and it would clearly be an useless expense to depute members of the Survey Establishment on this duty in places where the

Section 122—

For G. 13 substitute the following :—

“ A question was raised whether in the case of personal inam villages to which a survey settlement was extended before the Land Revenue Code, 1879, came into force, the inamdar was liable to maintain and repair boundary marks (section 123). As all survey settlements hitherto introduced into alienated villages have been validated by the Bombay Land Revenue Code (Amendment) Act, 1929 (Act XV of 1929), the provisions of the code regarding the maintenance of boundary marks are operative in all such inam villages.”

(G.R. No. 3681/28, dated 6-1-1930.)

revision Survey is completed. In places in which the revision Survey has yet to be made, it will be preferable for the Survey Department to take measures at the time of the revision for the removal of redundant marks. (G. R. No. 4686, dated 9th June 1885.)

G. 10. The Commissioners of Divisions[—] are authorized to write off outstanding balances on account of erection and repairs of boundary marks. (G. R. No. 7264, dated 13th October 1886.)

G. 11. Cost of correcting mistakes of revised Survey.—It would be very hard to expect an occupant to pay for a new survey of his field necessitated by the mistakes of revised Survey. (G. R. No. 5698, dated 28th August 1887.)

G. 12. Landholders responsible for their removal:—Under the terms of the Land Revenue Code the landholders are responsible for the removal of superfluous boundary marks and for any reasonable expenses incurred in connection therewith. The landholders should be impressed with the advantages of the speedy and entire obliteration of all superfluous marks and the village officers and Circle Inspectors should take steps for their complete demolition. (G. R. No. 3502, dated 13th May 1888.)

G. 13. Holders of villages which are alienated or held on similar other tenure, such as “Sanadi Inam” tenure, cannot be required to maintain the Survey boundary marks, unless the provisions of Chapter IX. of the Land Revenue Code have been formally extended to them. (G. R. No. 3613, dated 4th June 1888.)

G. 14. Rules for the demarcation of land permanently occupied for the use of Railways in India.—I. All land permanently occupied for the purposes of a Railway shall have its boundaries defined on the ground in such a manner as to

enable such boundaries to be readily ascertained and identified.

2. For this purpose the boundary of the Railway land may be defined by a continuous wall, fence or ditch, or by detached marks, posts or pillars.

3. Where the boundary mark is continuous, the boundary of the Railway land is to be on the outer edge of the wall, fence or ditch—that is to say, the wall, fence or ditch will be situated wholly on Railway land.

4. Where detached marks, such as isolated posts or pillars, are used, the boundary of the Railway land will pass through the centres of such marks. Between the marks the boundary will in each case be taken in a straight line from the centre of one mark to the centre of the next mark.

5. Detached marks are in no case to be a greater distance apart centre to centre than one eighth of a mile (660 feet). They are to be of a substantial character, not easily destroyed or moved by accident or mischief, and are to be of such size and form as to be readily found and recognized.

6. Each detached boundary mark is to bear a number, and the position and corresponding number of each detached boundary mark is to be shown on the land plan.

7. Where a fence, wall or ditch is for convenience situated at some distance within the boundary and does mark the actual limit of the Railway land, it will be necessary that in addition to such fence, wall or ditch, the actual boundary of the Railway land shall be properly marked and defined in accordance with these rules (G. R. No. 6937, dated 1st October 1890, and order No. 45 of Railway Board Circular, No. 27 R. C. of 1907, circulated with G. R. No. 7953, dated 12th August 1907.)

G. 15. Remedy if an Inamdar fails to abide by this section.—There is no provision of law or order under which steps can be taken against an

alienee for non-compliance with the orders in G. R. No. 2581, dated 19th June 1865, which lays down that the owners of alienated villages, which have been surveyed either by virtue of their being held on service tenure or at the express desire of the alienee, should be requested to cause the boundary marks to be examined by the village officers, to test these examinations themselves or by their agents and to report the result to the Assistant Collector in charge of the taluka.

But the provisions of Sections 216 and 217, which apply to alienated villages into which the survey settlement has been introduced, empower the Collector to take all necessary measures under Sections 123 to 125 for the preservation and maintenance of boundary marks. (G. R. No. 4799, dated 8th June 1892.)

G. 16. Recovery of the cost of boundary marks.—In all cases of the recovery of the cost of boundary marks or other unusual charges detailed lists of the amounts due from the several individuals should be sent to the villages for publication in the village chavdis. When the recovery is to be made by village accountants, both the sums due and amounts recoverd will be shown in the proper village accounts. (G. R. No. 1789, dated 12th March 1898.)

G. 17. Expenditure on boundary marks.—The Collectors may sanction expenditure on boundary marks in Government waste and the Commissioners on frontier boundary marks. (Serial Nos. 10 (a) and (b) of statement I, accompanying G. R. No. 279, dated 26th January 1903.)

INSTRUCTIONS FOR THE MAINTENANCE AND REPAIR OF BOUNDARY MARKS.

G. 18. The Governor in Council is pleased to observe that while the law remains unaltered, the general notification required by Section 122 of the

Land Revenue Code must be issued as hitherto, and that it is doubtful if the notification can ever, with propriety, be dispensed with. Without it, it would be possible for any recalcitrant cultivator to object, with at least a show of reason, to his being charged with the expense of the repair of his boundary marks by Government agency, on the ground that, if properly warned, he would have repaired them more cheaply himself. Instructions for the maintenance and repair of boundary marks have been sanctioned as follows :—

1. The Collector shall arrange the villages of each Circle in five groups of approximately equal area.
2. The boundary marks in each of these groups shall be repaired in five consecutive years.
3. In the villages appointed to be dealt with according to this programme, printed notice shall be issued by the Sub-Divisional Officer, Mamlatdar or Mahalkari, not later than November 15th in the case of kharif villages and February 15th in the case of rabi villages, warning the rayats to repair their marks within 30 days, failing which, the repair will be effected by Government at their (rayats') expense.

NOTE.—The Collector may change these dates for reasons to be reported to the Commissioner.

4. On the expiry of 30 days, the Circle Inspector, accompanied by the Village Officers, shall proceed to repair the marks by hired labour, defraying the cost from the permanent advance placed at his disposal.
5. The Sub-Divisional Officer shall be responsible for seeing that the funds placed at the disposal of the Circle Inspector are adequate.

6. The number and kind of marks repaired or replaced and the cost thereof shall be entered by the Circle Inspector in village Form No. 4 for each survey number.

The Talati shall see that these amounts are immediately recovered.

7. The Collector, the Sub-Divisional Officer and the Mamlatdar shall be responsible for satisfying themselves by means of sufficient test and inspections, that the money is properly expended and the work well-done.
- *8. The Collector shall make due provision in his annual budget for the advance required for his district for the cost of boundary marks recoverable from landholders.

9. The amount so provided will be distributed amongst the several Circle Inspectors according to the requirements of each circle and debited in the name of the Circle Inspector in Taluka Form No. 15-B, when the bills are cashed.

10. The Circle Inspector should make the payment to the hired labourers or the contractor, as the case may be, in his own presence and obtain their receipts.

The mark of the recipient, if illiterate, should be taken in his own hand, in token of his signature.

- II. The Mamlatdar, Mahalkari, and Sub-Divisional Officer should, on their tour, take tests of the repaired marks and of the payments made to the labourers or contractors in at least two villages in each circle.

The result of the tests should be noted in the amended Form No. IV at the end of the form.

* Instructions 8 to II were added by G. R. No. 12186, dated 30th November 1908.

2. Stones should be substituted for earthen boundary marks in Gujarat, wherever that course is considered advisable by the Collectors, with due regard to the preferences of the people. In some localities stones will apparently be relatively cheap, and the initial expense of putting them up will be compensated by the avoidance of labour and expenditure on repair of the marks. Wherever the "boundaries between occupied Survey numbers" are sufficiently marked by hedges, earthen boundary marks and stones should be dispensed with as unnecessary.

A permanent advance of Rs. 50 should be granted to each Circle Inspector. (G.R. No. 10527, dated 6th November 1906.)

G. 19. As regards maintenance of bend marks, they should be maintained only at salient angles and should be dispensed with at minor bends. An exception, however, must be made to this concession in the case of land adjoining Government waste, all numbers set apart for special purposes and lands subject to special assessment, e.g., for building and other non-agricultural purposes. (G.R. No. 1093, dated 31st January 1907.)

G. 20. Boundary mark charges-Accounts:— Provision on account of expenditure on boundary marks on private lands is made in the "Estimates of ways and means," the receipts being also credited to the same head. All recoveries should be deducted from expenditure and should not be credited to the receipt side. (G. R. F. D. No. 4818, dated 7th December 1907.)

G. 21. Increased charge for marks in disrepair.—Government approved the action taken by the Commissioner, S. D., in ordering that all Collectors should make the charge for each boundary mark repaired by Government agency so high that if

[†] The words in quotation were added by G. R. No. 3804, dated 15th April 1907.

marks are out of repair the necessity of paying it will be a real incentive to people to keep marks in repair themselves. (G. R. No. 4981, dated 22nd May 1909.)

G. 22. Repairs of boundary marks in waste lands, where cutting grass or grazing is sold or granted free, should be done at Government cost. (G. R. No 8627, dated 26th September 1910.)

G. 23. The number of boundary marks seen by Inspecting officers should be shown in the test returns accompanying monthly diaries of Mamlatdars and Prant officers. (G. R. No. 5792, dated 23rd June 1914.)

G. 24. Inspection of boundary marks by their numbers and not by Survey numbers should be given in the annual administration reports. (G. R. No. 9303, dated 1st October 1914.)

G. 25. Boundary marks:—The single mark system of boundary marks sanctioned in G.R. No. 7671 dated 18th August 1914, R.D. may be continued for one year more in order that further experience may be gained.

In Desh Districts very general approval of the system is indicated but the Collectors of the Konkan districts report that the system is not suitable to rice fields. It is objected that the large number of bends in rice fields require a large number of stones. However, if the ridge is properly maintained it is not necessary to place a stone at every bend. The new system may, therefore, be left to the choice of the ryots in the Konkan.

(G.R.R.D, No. 556 dated 19th January 1918.)

J. 1. Sections 56 and 153 apply to the sales of land for the charges referred to in this section. The occupancy may be forfeited and sold. (I.L.R. XV. Bombay, 67.)

Responsibility
for the
main-
tenance of
boundary-
marks.

[^a] **123.** Every landholder shall be responsible for the maintenance and good repair of the boundary-marks of his holding, and for any charges reasonably incurred on account of the same by revenue officers in cases of alteration, removal, or disrepair. It shall be the duty of the village officers and servants to prevent the destruction or unauthorized alteration of the village boundary-marks.

[a] As to the local modification of s. 123, see para. 4 of footnote [a] on p. 1, *supra*.

G. 1. Demarcation of Forest lands. Liability of the Forest Department to pay its cost.—The Forest Department should be required to pay only half the cost of boundary marks put up to mark the line of division between forest land and non-forest land, and as the ordinary survey boundary mark is not efficient as a forest boundary mark, the Forest Department should not be required to pay for the ordinary survey boundary marks if they undertake to put up boundary marks of their own. But it would not be convenient to leave a boundary without survey marks when the Forest Department is not ready to put up marks suitable to their purpose at once. In such cases the Forest Department will pay half the cost of the boundary marks erected by the Survey Department. (G.R. No. 5637, dated 7th August 1886.)

G. 2. G.R. No. 5637, dated 7th August 1886, was intended to rule that the Forest Department should pay the usual occupant's share of the costs of boundary marks between land in its charge and other land. But when the Forest Department prefers to put up special marks by its own agency, at its own cost, and is prepared to do so at once, the special marks will be substituted for the ordinary survey marks. (G.R. No. 7063, dated 5th October 1886.)

*Section 124—**Insert G. 2 :—*

“A question was raised whether in talukdari villages boundary marks when neglected by talukdars can be repaired by Government agency and the cost therefor recovered from talukdars under section 124. Sections 122–124 relating to boundary marks apply to all talukdari villages in which the duty of keeping boundary marks in order devolves on landlords (talukdars). If they fail they are liable to make good reasonable expenses incurred by Revenue Officers in repairing or replacing these marks. But a Collector as such is not a Revenue Officer for the purpose of section 124 in a talukdari village as a survey settlement is not introduced in a talukdari village. The Collectors of Ahmedabad, Kaira, Panch Mahals and Broach have accordingly been appointed Superintendents of Survey for all talukdari villages in their districts for the purpose of enabling them to act under sections 122 and 123.”

G. 3. The cost of boundary marks constructed by the Revenue Survey Department in forest survey Nos. should be charged to the Forest Department. A special notice, over and above that required by Section 122 of the Land Revenue Code, of the intention of the Survey Department to erect boundary marks in forest Nos. should be given to the Forest Department. (G.R. No. 625, dated 26th January 1887.)

G. 4. What charges may be said reasonably incurred. The charge should include the salary and expenses of the officer, if any employed, and should not be such as would not be incurred if the work was being done at Government expense, nor should the landholders be made to pay for work which they are willing and able to do themselves. Copies of survey documents which may be required should be charged for at the rates given to section writers. (G.R. No. 646, dated 25th January 1894).

124. When the survey settlement shall have been introduced into a district, the charge of the boundary-marks shall devolve on the Collector, and it shall be his duty to take measures for their^[a] construction, laying out^[a], maintenance and repair, and for this purpose the powers conferred on survey officers by section 122 shall vest in him.

Collector to have charge of boundary-marks after introduction of the survey settlement.

[a-a] These words were inserted by Bom. VI of 1901, s. 15.

G. 1. The collector can take action under section 124 in alienated villages in which survey settlement has been introduced. (G. R. No. 7169 dated 24th July 1909).

125. Any person convicted after a summary inquiry before the Collector, or before a survey officer, Mámlatdár, or Mahálkari, of wilfully erasing, removing or injuring a

Penalty for injuring boundary-marks

boundary-mark, shall be liable to a fine not exceeding fifty rupees for each mark so erased, removed, or injured.

One-half of every fine imposed under this section may be awarded by the officer imposing it to the informer, if any, and the other half shall be chargeable with the cost of restoring the mark.

G. 1. Award to an informer who is a Government Servant:—It cannot be laid down as a rule that in no case shall a Government Servant be allowed to accept a reward for laying information of the removal of boundary marks, the granting or withholding of it must be determined by the merits of each case, and left to the discretion of the officer who inflicts the fine. (G. R. No. 1682, dated 6th April 1870.)

G. 2. Enquiries into injuries to boundary marks.—Cases in which it is desirable in the interests of Government to hold enquiry (as for instance, cases of complaints of injury done to Survey marks), should not be dismissed through default of the parties in furnishing Court fee, batta to witnesses, etc. In such cases the best course for the Revenue Authority is to accept the petition or complaint and summon the witness *proprio motu*. The Government of India in their Resolution No. 3025 of 31st December 1878 (which may be found at page 13, order No. 27 of Civil Circulars of 1903) have sanctioned the procedure to be followed when a judge himself summons the witness in a suit, and this procedure may be adopted by Revenue Authority holding as such a judicial proceeding. (G. R. No. 6737, dated 11th November 1881).

G. 3. Special rewards to Village officers:—Commissioners are allowed discretionary power to reward Village officers with presents of turbans for

keeping boundary marks in thorough repair, on condition that such gifts are given only for exceptional merit. The expenditure incurred annually by each Commissioner for the purpose should not exceed Rs. 100. (G. R. No. 309, dated 14th January 1889.)

CHAPTER X.

OF LANDS WITHIN THE SITES OF VILLAGES, TOWNS, AND CITIES.

126. It shall be lawful for the Collector, or for a survey officer, acting under the general or special orders of Government, to determine what lands are included within the site of any village, town, or city, and to fix, and from time to time to vary the limits of the same, respect being had to all subsisting rights of land holders.

N. 1. Under this section the Collector should take action by varying the limits of the site so as to include such land as is already built upon or is likely in a few years to come under brick and mortar owing to the extension of a city. The city survey can then be notified as applying to the new site so determined by the Collector under this section.

N. 2. A city survey manual with chapters on Plane table surveys, and minor triangulation has been prepared by F. G. H. Anderson Esquire, M. A. I. C. S. Settlement Commissioner and Director of Land Records, Bombay. This is intended for the use of city survey officers.

G. (1) General Survey of village sites abandon- 4305 } of
ed.—It having been deemed inexpedient to proceed 5930 } 1879 further in the matter of the general survey of village sites contemplated in the Resolutions of